IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 27TH JUNE 2007 / 6TH ASHADHA 1929

Crl.Rev.Pet.No. 608 of 2000()

CRA.29/1992 of SESSIONS COURT, KASARAGOD DT..20.6.2000.
CC.259/1988 of JUDL.MAGISTRATE OF FIRST CLASS-I, HOSDRUG DT.27.4.92.

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REVN. PETITIONER: APPELLANT/ ACCUSED

K.V.VASANTHAN,
S/O. K.V.BALAKRISHNAN,
AZHIKODE, CANNANORE,
DRIVER OF KRV 3155 BUS.

BY ADV. SRI.P.VIJAYA BHANU
SMT.MINI JOHN PAREMALIL

RESPONDENT/ RESPONDENT/ COMPLAINANT

STATE OF KERALA, REP.BY
PUBLIC PROSECUTOR , HIGH COURT
OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.DILIP

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 27/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

CRL.RP. 608/2000

ORDER ON CMP. NO.3362/2000 IN CRL.RP. NO.608/2000

DISMISSED

27.06.2007 **SD/- K.R.UDAYABHANU, JUDGE**

/TRUE COPY/

P.S. TO JUDGE

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K.R. UDAYABHANU, J.

CRL.R.P.NO. 608 OF 2000

DATED THIS THE 27th June 2007

ORDER

The revision petitioner stands convicted for the offences under Sections 279, 337, 338, 304(A) of the Indian Penal Code and sentenced to undergo simple imprisonment for one month for the offence under Section 337, simple imprisonment for three months for the offence under Section 338 IPC, simple imprisonment for one month for the offence under Section 279 IPC and simple imprisonment for six months for the offence under Section 304(A) IPC.

2. The prosecution case is that on 29-1-1988 the accused drove the bus bearing Registration No. KRV-3155 along the Nileshwar-Kanhangad public road in a rash and negligent manner so as to endanger human life, lost the control of the same and knocked down certain school children and hit on a compound wall and capsized. Two of the children died in the accident. The contention of the counsel for the revision petitioner is that the incident took place on account of the mechanical defect of the vehicle. In this regard she has relied on the version of the

witnesses in the cross examination that they heard a loud sound before the accident took place. Apart from the above, in Ext.P22, the report of the Motor Vehicle Inspector it is mentioned that the both the front wind screen glass right and left side broken, front left side glass broken, front right and left corner bottom portion of the body damaged, right side front shackle pin of road spring dislocated and front axle tilted. The Motor Vehicle Inspector, who was examined as PW13, has also stated in the cross examination that it is possible that the driver may lose control of the vehicle in case of the above damage to the vehicle. I find that both the courts below have relied on the report of the Motor Vehicle Inspector, i.e.Ext.P22 that there was no defect to the break system. The inference is that the accident is happened on account of the excessive speed of the vehicle. It was hence that he could not control the vehicle.

In the circumstances and in view of the concurrent findings of the courts below, I find no reason to interfere in the findings of guilt of the accused. The conviction is confirmed. Counsel for the revision petitioner has pleaded for leniency pointing out

that the accident has taken place in 1988 and that almost 20 years have elapsed and so far the accused has been facing the criminal proceedings. In the circumstances, the sentence is liable to be modified. Hence the sentence imposed under Section 304 (A)I.P.C. is modified to imprisonment till the rising of the court and to pay a compensation of Rs.10,000/- each (total Rs.20,000/- each) to the L.Rs. of the deceased children and in default to undergo simple imprisonment for six months. The revision petitioner is granted two months time to remit the amount of compensation. He shall appear before the Judicial First Class Magistrate, Hosdurg on 4-9-2007 to receive sentence. The Crl.revision petition is disposed of accordingly.

K.R.UDAYABHANU, JUDGE

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K.R.UDAYABHANU, J

CRL.R.P. NO. 608 OF 2000

ORDER

27-6-2007